

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA

Alexandria Division

UNITED STATES OF AMERICA

v.

XUAN-KHA TRAN PHAM,

Defendant.

Case No. 1:23-mj-107

MOTION TO DISMISS

The United States of America hereby moves, pursuant to Rule 48(a) of the Federal Rules of Criminal Procedure,¹ to dismiss without prejudice the criminal complaint presently pending against the defendant. *See United States v. Chase*, 372 F.2d 453, 463 (4th Cir. 1967) (stating that a Rule 48(a) “dismissal is without prejudice”); 3B Peter J. Henning, *Federal Practice & Procedure Crim.* § 801 (4th ed. 2024) (“A dismissal properly taken under Rule 48(a) is without prejudice[.]”).

¹ Rule 48(a) provides that “[t]he government may, with leave of court, dismiss an indictment, information, or complaint.” The leave-of-court requirement confers only highly limited discretion to deny a government motion under Rule 48(a). *See United States v. Goodson*, 204 F.3d 508, 512 (4th Cir. 2000). Indeed, “the court must grant the government’s Rule 48(a) motion unless the court concludes that to grant it would be clearly contrary to manifest public interest, determined by whether the prosecutor’s motion to dismiss was made in bad faith.” *Id.* Here, there is no bad faith; the government simply no longer wishes to pursue the instant prosecution at this time.

Respectfully submitted,

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